

REMARKS

Applicant appreciates the time taken by the Examiner to review Applicant's present application. This application has been carefully reviewed in light of the Official Action mailed September 15, 2006. Applicant respectfully requests reconsideration and favorable action in this case.

Specification Objections

The specification was objected to for failing to include the application number of the co-pending application identified as Attorney Docket No. VIGN1640-1. Paragraph [0001] of the specification has been amended to include the appropriate application number. Accordingly, withdrawal of this objection is respectfully requested.

Rejections under 35 U.S.C. § 102

The Examiner has rejected claims 1-43 under 35 U.S.C. §102(e) as being anticipated by U.S. Publication No. 20040107319 ("D'Orto").

The effective date of a U.S. patent U.S. patent application publication, or international application publication under PCT Article 21(2) is the earlier of its publication date or date that it is effective as a reference under 35 U.S.C. § 102(e). See 37 C.F.R. 1.131. Applicant notes that the effective date on which the D'Orto reference becomes available as prior art is the filing date of U.S. Patent Application No. 10/308,459 corresponding to D'Orto. Namely, December 3, 2002. Applicant respectfully submits that the subject matter of the present application was invented before the December 3, 2002 effective date of the D'Orto reference.

Mr. Conleth O'Connell (an employee of Vignette Corporation) conceived of the invention of the present application prior to December 3, 2002, the filing date of the D'Orto patent application. More specifically, the invention of the present application was conceived of on or before November 20, 2002, as evidenced by the Cache on Delivery/Cache Manager Design Document ("Cache Document") composed on or before November 20, 2002. The Cache Document demonstrates a conception of the invention described and claimed in the present application. See, Declaration Under 37 C.F.R. 1.131 (the "O'Connell Declaration.") ¶¶1-5, appended hereto as Exhibit 1. Additionally, the invention of the present application was subsequently reduced to practice by the filing, on December 13, 2002, of U.S. Provisional Application 60/433,408 on which the present application is based.

As the subject matter of the present application was conceived on or before December 3, 2002 and subsequently reduced practice by the filing of a provisional patent application on December 13, 2002; Applicant respectfully submits that the subject matter of the present application was invented prior to December 3, 2002, the effective date on which the D'Orto reference is available as prior art under 35 U.S.C. § 102(e). Consequently, Applicant respectfully submits that the D'Orto reference is not available as prior art under 35 U.S.C. § 102(e) and respectfully requests the withdrawal of the rejection of Claims 1-43 over the D'Orto reference.

IDS REFERENCES

The Applicant filed an information disclosure statement (IDS) in the present application on February 10, 2006. The Applicant notes that the Office Action was not accompanied by a copy of the listing of references (Form PTO-1449) submitted with this IDS, initialed by the Examiner to indicate that the references cited therein were considered. Therefore, the Applicant respectfully request that the Examiner consider the references cited in this IDS and forward a copy of the initialed Form PTO-1449 to the Applicant.

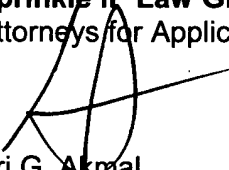
Applicant has now made an earnest attempt to place this case in condition for allowance. Other than as explicitly set forth above, this reply does not include an acquiescence to statements, assertions, assumptions, conclusions, or any combination thereof in the Office Action. For the foregoing reasons and for other reasons clearly apparent, Applicant respectfully requests full allowance of Claims 1-43. The Examiner is invited to telephone the undersigned at the number listed below for prompt action in the event any issues remain.

An extension of 1 month is requested and a Notification of Extension of Time Under 37 C.F.R. § 1.136 with the appropriate fee is enclosed herewith.

The Director of the U.S. Patent and Trademark Office is hereby authorized to charge any fees or credit any overpayments to Deposit Account No. 50-3183 of Sprinkle IP Law Group.

Respectfully submitted,

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Date: January 10 2007

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